

IN THE SUPREME COURT OF THE STATE OF MONTANA

No.

ORIGINAL

CITY OF KALISPELL,

Plaintiff and Appellee,

v.

HARLEY KERN,

Defendant and Appellant.

FILED

DEC 31 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

NOTICE OF APPEAL

Notice is hereby given that Harley Kern, the Appellant above-named and who is the Defendant in the cause of action filed in the Eleventh Judicial District, in and for the County of Flathead, as Cause No. DC 09-394(C), hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action on the 5th day of November, 2009.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached hereto as Exhibit "A."

3. That the notice required by Mont. R. App. P. 27 will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature if applicable to this appeal.

4. That all relevant transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of Mont. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal. No transcripts were ordered in this cause, no actual hearings were held in the District Court.

Respectfully submitted this 31st day of December, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
139 N. Last Chance Gulch, 2nd Floor
P.O. Box 200145
Helena, MT 59620-0145

By: Joslyn Hunt
JOSLYN HUNT
Chief Appellate Defender

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing Notice of Appeal upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

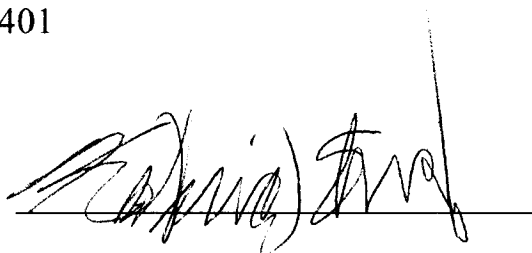
PEG ALLISON
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DATED: December 31, 2009

A handwritten signature in black ink, appearing to read "Mark Mattioli", is written over a horizontal line.